

National Aeronautics and Space Administration
Headquarters
Washington, DC 20546-0001



April 12, 2013

Reply to Attn of:

Office of Communication
Headquarters, FOIA Office

Michael Morisy
MuckRock News
DEPT MR 4888
PO Box 55819
Boston, MA 02295-5819
4888-88185482@requests.muckrock.com

FOIA: 13-HQ-F-00519

Dear Mr. Morisy:

Thank you for your Freedom of Information Act (FOIA) request dated April 7, 2013, and received in our office April 8, 2013. Your request was assigned FOIA Case Number 13-HQ-F-00519. Your request was for:

A copy of all emails, memos, correspondence and other documents relating to:

- 1) the decision to take NTRS offline (see below for a descriptive article on this situation).
- 2) plans/processes/procedures/timelines for restoring this database for public use.
- 3) difficulties in conducting the review process.
- 4) current status of the review process.
- 5) Communications between NASA and Rep. Frank Wolf (R-VA) regarding NTRS and the public posting of other NASA technical materials.

I limit my request to documents generated between March 1, 2012, and the date that this request is processed.

In your letter you have requested a fee waiver and asserted status as a representative of the news media. Representatives of the news media status are not granted a fee waiver based solely on an assertion of that FOIA fee category. Therefore, we are asking you to provide justification to warrant news media status in accordance with Department of Justice guidance. In accordance with Department of Justice guidance, a representative of the news media is defined as 'any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.' The 'news' must also be of current events or of

current interest to the public. Please be advised that merely making the information available to the public is not sufficient to qualify for this category. Additionally, a request from a representative of the news media that does not support its news-dissemination function will not be afforded this favored fee category. In order for us to make a determination regarding your status as a representative of the news media, we ask that you provide information to support your claim.

A representative of the news media is not always afforded a complete fee waiver. Copy fees (as well as direct fees) may be charged following the first 100 pages of duplication. Requests for a waiver or a reduction of fees are considered on a case-by-case basis and are based on several factors. Before we waive associated processing fees, we must determine whether your request meets the twofold objectives for fee waivers established by the National Aeronautics Space Administration (NASA) and the Department of Justice; that is, whether disclosure of the information is in the public interest because it:

- (1) Is likely to contribute significantly to public understanding of the operations or activities of the Government; and
- (2) Is not primarily in the commercial interest of the requester
(14 CFR § 1206.702).

Before we make a decision on your request for a fee waiver we ask, in accordance with NASA regulations and the Department of Justice FOIA Guide and Overview, that you provide information in response to the following questions so that we can determine if granting the waiver or a reduction in fees is in the public interest. The Agency considers the following factors when determining if disclosure of information is likely to contribute significantly to public understanding (public interest) of the operations or activities of the Government:

1. Does the record specifically concern identifiable operations or activities of the Agency?
2. If the record(s) concern the operations or activities of the Agency, is disclosure likely to contribute to public understanding of those operations and activities? Are the disclosable contents of the record(s) meaningfully informative in relation to the subject of the request? For example, is this information of wide public interest and will your disclosure be unique in enhancing public knowledge.
3. Is the focus of the requester on contributing to public understanding, rather than on the individual understanding of the requester or a narrow segment of interested persons?
4. If there is likely to be a contribution to public understanding, will that contribution be significant? A contribution to public understanding will be significant if the information disclosed is new, clearly supports public oversight of Agency operations, including the quality of Agency activities and the effect of policy and regulations on public health and safety, or otherwise confirms or clarifies data on past or present operations of the Agency. Your identity, vocation, qualification(s), and expertise regarding the requested information may be relevant factors.

Furthermore, you must demonstrate how you plan to disclose the information and you must disseminate the information to the general public or a reasonably broad audience. (Dissemination to a wide audience is not merely posting the documents on a website, but providing an informative analysis of the information.) Public understanding must be enhanced by disclosure to a significant extent (see Sierra Club Legal Def. Fund. No. 93-35383, slip op. at 4). Requesters who make no showing of how the information would be disseminated, other than through passively making it available to anyone who might seek access to it, do not meet the burden of demonstrating with particularity that the information will be communicated to the public (U.S. Department of Justice Guide to the Freedom of Information Act Guide, May 2009, page 131); also see FOIA Update, Vol. VIII, No. 1 at 8 ("OIP Guidance: New Fee Waiver Policy Guidance") (advising agencies that . . . requests should be analyzed to identify particular person or persons who actually will use requested information in scholarly or other analytic work and then disseminate it to general public.)

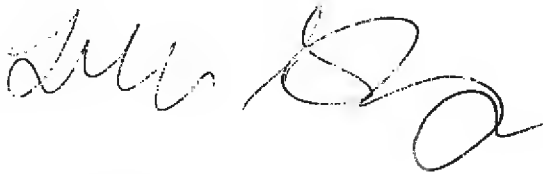
Requests for a waiver or a reduction of fees must be considered on a case-by-case basis and should address these requirements in sufficient detail for this office to make an informed decision as to whether we can appropriately waive or reduce the fees in question. A past grant of a fee waiver does not entitle a FOIA requester to any future FOIA fee waiver. Each fee waiver request must be considered on its own merits. Therefore, you must be specific in addressing the twofold objective for fee waivers for each FOIA request you submit. Since you have asked for a variety of documents related to several subjects, please ensure you address each item in your request. Please be advised that documents responsive to your request are maintained at Headquarters as well as all NASA Centers.

In order to process your request, we ask that you provide us with sufficient information to make a determination regarding your request for news media status as well as a fee waiver. If we determine from your response that you do not support your request for news media status or a waiver of copy and direct fees in accordance with NASA regulations and Department of Justice guidance, we will request that you furnish written assurance of your willingness to pay the fees associated with processing your request. We will then process your request in the 'other' category of requester. Requesters in the 'other' category are entitled to two hours of search and 100 pages of copy fees without charge (14 CFR § 1206.701(d)).

In accordance with Department of Justice guidance, we will not proceed further with your request until we receive additional clarification from you and you have stated a willingness to pay all associated fees (14 CFR § 1206.702). If we do not hear from you within 20 workdays of the date of this letter, we will assume you are no longer interested in this matter and close our file on your request. You may also choose to limit the scope of your request in order to reduce associated processing fees. If you would like to narrow the scope of your request to a specific location, i.e., Headquarters, in order to reduce processing fees, please let us know. Additionally, please confirm the durational scope of your request, is it for records from March 1, 2012, as indicated, or from March 1, 2013?

Please contact me at Lubna.M.Shirazi@nasa.gov or 202-358-2034 if you require further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lubna Shirazi', with a stylized flourish at the end.

Lubna Shirazi
Headquarters, FOIA Specialist